

Exhibit 55:

Dr. Elizabeth Letourneau Deposition Transcript

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

3 - - - - -)
4 JOHN DOES A, B, C, D, E, F, G,)
H, MARY DOE and MARY ROE, on)
5 behalf of themselves and all)
others similarly situated,)
6)
7 Plaintiffs,) File No.
8 -vs-) 2:22-cv-10209
9) HON. GOLDSMITH
10 GRETCHEN WHITMER, Governor of) MAG. IVY, JR.
the State of Michigan, and)
11 COL. JOSEPH GASPER, Director)
of the Michigan State Police,)
in their official capacities,)
12)
Defendants.)

REMOTE DEPOSITION

14 of ELIZABETH LETOURNEAU, a witness called by Defendants,
15 taken before Melinda S. Nardone, Certified Shorthand
16 Reporter and Notary Public, via Zoom, on Thursday, May
17 25, 2023, noticed for the hour of 10:00 a.m.

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1 APPEARANCES:

2 AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN
 3 1514 Wealthy SE, Suite 260
 Grand Rapids, MI 49506
 4 By MIRIAM AUKERMAN, J.D. and
 DAYJA TILLMAN, J.D.

5 On behalf of Plaintiff.

6 MICHIGAN DEPARTMENT of ATTORNEY GENERAL
 7 State Operations Division
 P.O. Box 30754
 8 Lansing, Michigan 48909
 9 By SCOTT DAMICH, J.D.

10 On behalf of Defendants.

11 Also present: Claudia Castre

1 Thursday, May 25, 2023

2 10:00 a.m.

3 R E C O R D

4 ELIZABETH LETOURNEAU,

5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. DAMICH:

8 Q. Good morning, Doctor Letourneau, my name is Scott
 9 Damich, I'm an assistant attorney general with the State
 10 of Michigan, I represent Governor Whitmer and Colonel
 11 Gasper. And more specifically I represent them in a
 12 case titled Does V Whitmer, it's Case Number
 13 2:22-cv-10209, and it's pending in the District Court in
 14 the Eastern District of Michigan in front of the
 15 Honorable Judge Goldsmith. I noticed your deposition in
 16 this case because you have been listed as a potential
 17 expert on behalf of the plaintiffs in this matter.

18 Now, there's a protective order in place in
 19 this matter, it's meant to protect the named plaintiffs'
 20 identity and also other declarants' identity. From
 21 defendants' side we're not in the business to try to
 22 divulge anyone's personal information, so when we take
 23 depositions of those individual named plaintiffs we want
 24 to make sure that we don't ask questions that divulge
 25 their personal information. I don't think that's going

3

1 EXAMINATION INDEX

2 ATTORNEY'S NAME EXAMINATION RE-EXAMINATION

3 BY MR. DAMICH: 4

4 BY MS. AUKERMAN: 77

5 * * *

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10 Ex B Slate article 19

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13 * * *

5 to be an issue today but who knows what worm hole we go
 2 down, and to the extent we do divulge any personal
 3 information I will work with Miriam to get that
 4 redacted. But I do want to let you know that there is a
 5 protective order in place and I'd also like to confirm
 6 that you have read and signed the protective order.

7 A. I don't actually know if I've read and signed a
 8 protective order.

9 MS. AUKERMAN: I don't believe so because
 10 there hasn't been any individual information divulged to
 11 Doctor Letourneau.

12 MR. DAMICH: Okay. I can't imagine it would
 13 get to that point either but just to be safe it is in
 14 existence.

15 Also, joining the deposition today we have
 16 Ms. Claudia Castre, she's joined us recently as a
 17 student intern for the summer here at the AG's office.

18 She's a 1L student at Michigan State University and I
 19 thought it would be a good idea for her to sit in on an
 20 expert deposition. And given, Doctor Letourneau, your
 21 CV I think she's going to learn a thing or two. So
 22 we're happy to have her here. She's also read and
 23 signed the protective order in this case as well.

24 And, Mindy, will you confirm that you've
 25 read the protective order and signed the acknowledgment?

1 COURT REPORTER: Yes, I have.

2 MR. DAMICH: Okay, good.

3 BY MR. DAMICH:

4 Q. Doctor Letourneau, have you ever been deposed
5 before?

6 A. I have.

7 Q. Approximately how many times?

8 A. I think four times.

9 Q. Four times. And was it for a civil lawsuit?

10 A. I think different, different types of lawsuits,
11 some civil, some criminal.

12 Q. Okay, so we'll go -- there's four of them and I
13 think they are perhaps listed on your CV, correct?

14 A. Uh-huh.

15 Q. So we'll get to that, we'll get to those here in
16 a little bit, but understanding you've been deposed four
17 times I think you understand the nature of what a
18 deposition is and what's happening right now. What I'm
19 saying is being recorded by Mindy, the court reporter,
20 verbatim and because of that, you know, if I ask like a
21 yes or no question to you if you could say yes or no
22 that would be great. Mindy won't be able to record a
23 head nod for yes or no for that matter.

24 Also, I'm going to -- I'll be asking -- the
25 purpose of today's deposition for me is to try to -- I'm

1 the factual issues that we might have in this case, and
2 I'm going to try to do that with questions that make
3 some semblance of sense to you.

4 Now, I have a history and political science
5 undergrad degree and we're going to be talking about a
6 lot of different things outside of those two areas, so I
7 apologize ahead of time if I butcher some of the words
8 that you use in your profession. But if I'm misusing
9 words that's causing confusion that's going to make your
10 answer not accurate please say, hey, Scott, I don't
11 understand your question because or, Scott, could you
12 please rephrase.

13 In other words, I don't want you to assume
14 that I've asked the question that you think I wanted to
15 ask you. So with that in mind is it a fair rule for
16 today if I ask you a question and you answered the
17 question asked that you fully understood what question I
18 asked you?

19 A. Yes.

20 Q. Excellent, thank you. Also, I don't -- I'm going
21 to stand by my statement that I'm going to try to be
22 efficient and, of course, effective, but with that I
23 don't anticipate this taking all day. I will ask
24 probably to take my own breaks, but I'm not the ruler of
25 breaks. Actually I'd like to consider you as the one

7

1 not even close to having an understanding of what you do
2 for a living, and to try to gain an understanding of
3 that. So I have some basic general questions for you
4 and I hope it's more conversational than it is
5 adversarial. And let's be honest, I'm the one asking
6 the questions so it's not like it's really a true
7 conversation but I would hope that it doesn't become
8 combative.

9 And the reason I say that because usually
10 when it does become combative is when cross talk
11 happens. And cross talk is horrible for Mindy to be
12 able to record what we're saying. So if I'm asking you
13 a question, if you can wait until I'm done asking the
14 question.

15 And also there's going to be some questions
16 that I ask today that I'm sure that there's going to be
17 objections made by opposing counsel. If you would let
18 her get opposing counsel's full objections out before
19 you answer that will probably help Mindy out too. And I
20 will do my best to not interrupt your answer.

21 Also, my goal today is not to trick you into
22 saying things that are going to help me help my clients
23 win their case, I'm not in to playing that game, it's
24 not my job. I am going to try to ask questions in a way
25 that both efficiently and effectively resolve some of

9

1 who would be able to call whenever to take breaks if you
2 want one. Don't hold back to ask, say, Scott, I need a
3 break for any reason, to get up, walk around, go to the
4 bathroom, get a drink. The only caveat to that is if
5 I've asked you a question that if you can answer the
6 question before we go off the record. Is that fair?

7 A. That is, yes.

8 Q. Excellent. Okay, are you taking any medication
9 or any substances that affect your ability to answer
10 questions truthfully today?

11 A. No.

12 Q. And is there anything else that might interfere
13 with your ability to answer the questions truthfully
14 today?

15 A. No.

16 Q. Okay. Why were you retained as an expert in this
17 case?

18 A. I believe I was retained as an expert in this
19 case because I have conducted 20 years of research on
20 registration and notification policies.

21 Q. Okay. Now the 20 years of research, is that
22 research dedicated to a specific age group?

23 A. No.

24 Q. And then who contacted you to be an expert in
25 this case?

1 A. **Miriam Aukerman.**
 2 Q. Do you remember approximately when?
 3 A. **It's been a couple years so I don't remember**
 4 **exactly when. Covid interrupted things, I think.**
 5 Q. Sure. So it was pre-covid so pre 2020?
 6 A. **I don't remember.**
 7 Q. Approximately how many times have you met with
 8 Miriam about this case?
 9 A. **Maybe four or five.**
 10 Q. Did you do anything today to prepare for today's
 11 deposition?
 12 A. **I did.**
 13 Q. What did you do?
 14 A. **I reviewed my affidavit. I made sure that I had**
 15 **the articles that might be brought up in questioning at**
 16 **hand.**
 17 Q. What articles did you print out that you thought
 18 might be questioned today?
 19 A. **I did not print out any articles, I just pulled**
 20 **my PDF versions of the articles that I am the lead**
 21 **author on.**
 22 Q. And how many articles are there?
 23 A. **That I quoted from myself maybe ten. Do you want**
 24 **me to count them?**
 25 Q. Sure. So you reviewed any articles that you were

1 A. **And there are sirens in Baltimore so I was**
 2 **muting, and then when you pulled that up I couldn't find**
 3 **the mute button.**
 4 Q. No, that's fine, that's fine. Okay. Do you see
 5 the document though now?
 6 A. **Yes.**
 7 Q. Do you recognize this document?
 8 A. **Yes.**
 9 Q. And what is this document?
 10 A. **This is my curriculum vitae.**
 11 MR. DAMICH: I'd like to mark this as
 12 Deposition Exhibit A.
 13 (Whereupon Deposition Exhibit A
 14 marked for identification.)
 15 BY MR. DAMICH:
 16 Q. I'm going to scroll down to page 12 of the CV
 17 itself, that is also marked -- it's also ECF number 1-5
 18 page ID 435. And at the bottom it says key live
 19 testimony activities; do you see that?
 20 A. **I do.**
 21 Q. And then it continues on to the next page,
 22 correct?
 23 A. **It's a different heading on part of the next**
 24 **page, but, yes, it does.**
 25 Q. There is approximately seven cases that you

11
 1 lead author of, and were those articles cited in your
 2 report?
 3 A. **These are articles I cited in my report. I**
 4 **didn't necessarily review them, I just pulled them into**
 5 **a folder so I'd have easy access to them.**
 6 MS. AUKERMAN: Just for the record,
 7 objection, misstates her prior testimony.
 8 BY MR. DAMICH:
 9 Q. And what do you understand to be at issue in this
 10 lawsuit?
 11 A. **My understanding is the Michigan Sex Offender**
 12 **Registration and Notification Act is in contention, that**
 13 **this act subjects people to registration who do not**
 14 **present a clear present risk to other individuals and**
 15 **that it assumes that it is an effective policy when, in**
 16 **fact, it's not or it's unlikely to be.**
 17 Q. Did you review the complaint that was filed in
 18 this case?
 19 A. **I did.**
 20 Q. I'm going to share my screen real quick if you'll
 21 give me a second. Will you let me know whenever it
 22 shows up? Are you there?
 23 A. **Sorry, I muted. So I live in Baltimore and I**
 24 **work in Baltimore.**
 25 Q. Okay.

13
 1 provided key live testimony in?
 2 A. **Yes.**
 3 Q. Starting with the first one, 2021 listed there,
 4 the PA Court of Common Pleas regarding Commonwealth of
 5 Pennsylvania versus George J. Torsilieri, what was at
 6 issue in that case?
 7 A. **Sex offender and registration, Pennsylvania's**
 8 **policy.**
 9 Q. And the defendant, was he in non-compliance with
 10 the state's policy?
 11 A. **I don't know if he was not in compliance with the**
 12 **state policy. My testimony focused on the research**
 13 **around registration and notification.**
 14 Q. And were you qualified as an expert in that case?
 15 A. **I was.**
 16 Q. Was there a challenge to your qualification as an
 17 expert?
 18 A. **There was not a challenge to my qualification as**
 19 **an expert out of registration notification. There was a**
 20 **challenge to my qualification as a policy expert and as**
 21 **an expert on child sexual abuse victimization, and I was**
 22 **subsequently qualified as an expert in those areas as**
 23 **well.**
 24 Q. In the same case?
 25 A. **In the same case.**

1 Q. And then the second one is in 2016 there's a
 2 Circuit Court, Huntsville, Alabama, in the interest of
 3 AS. Is that a case pertaining to juvenile registration
 4 and notification?
 5 A. Yes.
 6 Q. What was at issue in this case?
 7 A. **That case there was also about Alabama's juvenile**
8 sex offender registration notification policy.
 9 Q. Okay. And was the -- was AS challenging the
 10 requirements?
 11 A. **As I recall.**
 12 Q. And what did you testify to in that case?
 13 A. **The fact that these are ineffective policies that**
14 don't reduce sexual violence.
 15 Q. And were you qualified as an expert in that case?
 16 A. Yes.
 17 Q. An expert as?
 18 A. **On sex offender registration and notification**
19 policies.
 20 Q. Was there a challenge to your qualifications as
 21 an expert in that case?
 22 A. **I don't recall if there was a challenge.**
 23 Q. Then there's a 2014 matter listed there, the
 24 United States District Court for the Middle District of
 25 Alabama, the Northern Division?

15

1 A. Yes.
 2 Q. The case challenged AL's sex offender
 3 registration?
 4 A. Yes.
 5 Q. What was at issue in that case?
 6 A. **That was about adult sex offender -- Alabama's**
7 adult sex offender registration and notification policy.
 8 Q. And what did you testify to?
 9 A. **That these policies are ineffective at preventing**
10 sexual violence.
 11 Q. And were you qualified as an expert?
 12 A. I was.
 13 Q. Were there any challenges?
 14 A. **I don't recall actually.**
 15 Q. And you were specifically qualified as an expert
 16 on?
 17 A. **Sex offender registration and notification**
18 policy.
 19 Q. And the next case there, the 2011 Horry County
 20 South Carolina Circuit Court in People of the State of
 21 South Carolina V TS. What was at issue in that case?
 22 A. **The issue in that case was the civil commitment**
23 of a person who had been adjudicated delinquent as a
24 minor of sex crimes. Sex offender civil commitment.
 25 Q. And what did you testify to in that matter?

1 A. **That the individual in question was an**
2 inappropriate candidate for civil commitment.
 3 Q. And were you qualified as an expert?
 4 A. I was.
 5 Q. And an expert on?
 6 A. **I think generally on sex crime policy.**
 7 Q. Okay.
 8 A. **It is possible I was also qualified based on my**
9 expertise around child sexual abuse victimization.
 10 Q. And then the next one, the 2010 case, the
 11 Charleston County Family Court matter, what was at issue
 12 in that case?
 13 A. **In that case there was a person arguing to be**
14 released from sex offender registration notification
15 requirements.
 16 Q. And are you in favor of the individual being
 17 released or did you testify in favor of the individual
 18 being released?
 19 A. **I testified to the facts that these are**
20 ineffective policies that do not reduce the likelihood
21 of sexual violence.
 22 Q. And were you qualified as an expert?
 23 A. Yes, I was.
 24 Q. And were there any challenges to your
 25 qualifications as an expert?

17

1 A. **Not that I recall.**
 2 Q. And you were qualified as an expert on?
 3 A. **Juvenile sex offender registration and**
4 notification policy.
 5 Q. There's a 2009 matter out of Washtenaw County,
 6 Michigan, Trial Court, Family Division. What was at
 7 issue in that case?
 8 A. **I believe what was at issue is registration and**
9 notification, but I will let you know that that is so
10 long ago I don't remember the particulars.
 11 Q. And do you remember if you were qualified as an
 12 expert?
 13 A. **I assume I must have been.**
 14 Q. But you're not sure?
 15 A. **I think it's safe to say that I was. I don't**
16 have any other reason that I would have been involved in
17 a case like that unless it had to do with registration
18 and notification.
 19 Q. And then the 2008 matter in this Ohio Court, In
 20 re CP?
 21 A. Yes.
 22 Q. What was that case about?
 23 A. **That case was about Ohio's juvenile sex offender**
24 registration and notification policy.
 25 Q. And I'm assuming you testified against the

1 effectiveness of the policy registration?

2 **A. Correct, I testified that this is an ineffective**
3 **policy.**

4 Q. And were you qualified as an expert, do you
5 remember?

6 **A. I was.**

7 Q. And an expert on?

8 **A. Sex offender registration and notification**
9 **policy.**

10 Q. Do you consider yourself an expert in pedophilia?

11 **A. I know a lot about pedophilia.**

12 Q. Okay.

13 **A. Yeah, I know a lot about pedophilia. I'm not**
14 **sure that I would hold myself out as an expert on**
15 **pedophilia.**

16 Q. Are you an expert on government budgets?

17 **A. No, definitely not.**

18 Q. Are you an expert on governmental accounting?

19 **A. No.**

20 Q. Okay. Are you an expert at reviewing the
21 efficiency of government functions?

22 **A. No.**

23 Q. And back to pedophilia, I'm going to go ahead and
24 stop this share. I'm going to share my screen again
25 here. Okay, do you see this document?

1 notoriously unable to recognize child molesters because
2 people they respect simply don't fulfill the image they
3 have of monsters or predators. Given our blind spots,
4 she says, we need to try and reach potential abusers
5 before they abuse or even after they've abused but don't
6 want to again, which means first understanding the
7 source of their harmful urges. Do you still agree with
8 that statement?

9 **A. Yes.**

10 Q. Okay. And so within this statement you talk
11 about red flags. What do you mean by red flags?

12 **A. What I was referring to there is the fact that it**
13 **is often the case that when somebody that we like or**
14 **respect or love or know well is engaging in behavior**
15 **that would otherwise raise concerns we often give them a**
16 **pass, that we look for other explanations for why they**
17 **might be engaging in behavior that would be concerning**
18 **to us if it was someone that we didn't know or like or**
19 **love or respect.**

20 Q. And you still believe that people are notoriously
21 unable to recognize child molesters?

22 **A. In some situations, yes.**

23 Q. Okay. What do you mean in some situations?

24 **A. When people who are sexually abusing children and**
25 **who are well-known to the individual, that can make it**

19

21

1 **A. I do.**

2 Q. Do you recognize this?

3 **A. I do.**

4 Q. And what is this document?

5 **A. This is an interview that involved the reporter,**
6 **Jennifer Bleyer.**

7 Q. And who was she a reporter for?

8 **A. At that time she was reporting for Slate.**

9 MR. DAMICH: I'm going to mark this as
10 Deposition Exhibit B.

11 (Whereupon Deposition Exhibit B
12 marked for identification.)

13 BY MR. DAMICH:

14 Q. I'm going to scroll down. Do you see a
15 highlighted version here and do you see that?

16 **A. I do.**

17 Q. Do you want me to scroll in a little bit because
18 I'm going to have you read it. Does that help out a
19 little bit?

20 **A. Yeah, that looks fine.**

21 Q. Okay. Could you read this first highlighted
22 portion where it starts with your name -- I'll just read
23 it, it says, Elizabeth Letourneau of the Johns Hopkins
24 Bloomberg School of Public Health, who studies child
25 sexual abuse, agrees that even with red flags people are

1 **difficult to identify that harm is occurring.**

2 Q. And why is that?

3 **A. Because when we care about someone or know them**
4 **or respect them, love them, we understand that there is**
5 **a lot of good and it can be difficult to also believe**
6 **that someone who is engaged in good behavior could also**
7 **be engaged in the very harmful behavior of child sexual**
8 **abuse.**

9 Q. So does that -- is it fair to say then that
10 results in a substantial amount of underreporting?

11 **A. I don't -- I think there's many reasons why**
12 **people do not report sexual abuse. One of those reasons**
13 **might be that they don't recognize it's happening,**
14 **obviously, so you can't report something that you don't**
15 **recognize.**

16 Q. But would you agree that there's a substantial
17 underreporting of sexual abuse amongst minors?

18 **A. It depends on what you mean by substantial. So**
19 **the Department of Justice, the U.S. Department of**
20 **Justice, reports that about 48 percent of rapes and**
21 **sexual assaults do get reported to the police, so indeed**
22 **that does mean that 52 percent don't. That is**
23 **substantial I would say.**

24 Q. Now, you talk about understanding the source of
25 their harmful urges; could you unpackage that a little

1 bit?
 2 A. People sexually abuse children for a variety of
 3 reasons. Most people assume that everyone who sexually
 4 abuses a child does so because they have strong sexual
 5 attraction to children, preferential sexual attraction
 6 to children we might say, which is part of the
 7 definition of pedophilia. The reality is is that half
 8 or more than half of adults who sexually offend against
 9 children do not have strong or preferential sexual
 10 attraction to children and we need to do a much better
 11 job of understanding what these other risk factors are
 12 that would lead an adult to engage in sexual abuse of a
 13 child, particularly adults who are not sexually
 14 attracted to children.

15 Q. The article goes on to say, as Cord Jefferson
 16 reported recently in Gawker, new research suggests that
 17 pedophilia-the attraction to children, not the act of
 18 molesting them-is essentially impossible to change. Do
 19 you see that?

20 A. I do see that in the article, yes.

21 Q. Do you agree with that statement?

22 A. I do. Sexual attraction, whatever your sexual
 23 attractions are, are very difficult to change,
 24 potentially impossible.

25 Q. Okay. I believe this article was talking about a

1 A. Well, as I said there's other risk factors for
 2 acting sexually against children and so we know that
 3 sexual attraction to children is a risk factor, but it
 4 is not the only risk factor. And there's not very good
 5 data yet comparing the strength of different risk
 6 factors.
 7 Q. And what are some of those other risk factors?
 8 A. It appears that being surrounded by children
 9 perhaps as part of your job or your volunteer activities
 10 to whom you're not related biologically or through
 11 adoption related presents a risk to some people who
 12 offend against children, primarily out of access.
 13 There's also kind of antisocial sociopathy and
 14 psychopathy where an individual is prone to prioritizing
 15 their own needs and wants over those of others including
 16 others who they may harm, that is another factor for
 17 engaging in these kinds of behaviors.

18 And then people who are in positions of
 19 impunity appear to be at higher risk. So if you know
 20 that the organization that you work for or that employs
 21 use, that you're connected to, tolerates the sexual
 22 abuse of children, that also seems to be a risk factor
 23 for engaging in the sexual abuse of children.

24 Q. Okay. And those factors, is there a lot of
 25 research on how those play into the overall risk

23
 1 boy who found out -- determined at a very young age that
 2 he was attracted to younger children. Can you hear me?
 3 A. I can, yes.
 4 Q. Sorry, I dropped off for a little bit there.
 5 A. Okay.
 6 Q. The last thing I did was ask you -- I asked you a
 7 question and I didn't get -- I kind of dropped off of
 8 Zoom, so I don't know if you heard my question or not?
 9 A. I did not.
 10 Q. Okay. Now, I was referring to this article that
 11 you were interviewed for and the story, the backup
 12 story, I think the article discusses about a young boy
 13 who finds out at a young age that he's sexually
 14 attracted to other young boys and that that attraction
 15 stays with young boys as he ages. Do you believe that
 16 the attraction to young children stays with a human
 17 being throughout their life?

18 A. I believe that it can and probably does most of
 19 the time. There are absolutely cases of people
 20 reporting that the age of attraction does change over
 21 time so it's not set in stone for every person.

22 Q. Okay. So if you're an individual who has a
 23 sexual preference for children you're more -- you have a
 24 better chance of acting on that sexual preference than
 25 someone who doesn't, correct?

25
 1 assessment of an individual?
 2 A. I think our understanding that people offend for
 3 reasons other than sexual attraction to children is
 4 still relatively new. I mean folks have known this for
 5 decades, have known that most offenders who are
 6 convicted of sexual offenses against children don't have
 7 preferential sexual attraction to them, that was
 8 established a couple decades ago. But seeking out then
 9 why else do people offend against children has taken
 10 some time to get prioritized by funders, research
 11 funders.

12 Q. So are there ways to treat, to suppress, the urge
 13 to want to act on this sexual desire?

14 A. Yeah. I mean you may not be able to change
 15 attraction but you can certainly change behavior.

16 Q. And what type of actions would that be?

17 A. Well, there are many people with sexual
 18 attraction to children who choose themselves not to act
 19 on it and so they figure out how to keep themselves
 20 safe. In terms of effective prevention programs, you
 21 know, this is an area of science, evaluating prevention
 22 programs that specifically are for specific risk factors
 23 is a pretty new area of research. We, for example, are
 24 just about to launch a randomized control trial
 25 evaluating whether an online self-help intervention

1 **actually improves people's ability to avoid harming**
 2 **children and is specifically targeted towards people**
 3 **with sexual attraction to children. There's a couple of**
 4 **other randomized control trials along similar lines that**
 5 **are really looking at do interventions for people with**
 6 **sexual attraction to children work to reduce the**
 7 **likelihood of future abuse.**

8 Those trials, several of them, really just
 9 got started. This is a pretty new area of research.
 10 One was completed and showed some promise in behavior,
 11 although that one by Christopher Rahm and his colleagues
 12 didn't necessarily target people with sexual attraction
 13 to children but targeted people engaged in searching for
 14 child sexual abuse images online.

15 I should also say there's another area of
 16 research looking at the treatment of people who have
 17 sexually offended and what it takes to reduce recidivism
 18 rates of high risk individuals, and that research is
 19 also -- is actually a little more robust. So there's
 20 several randomized control trials that support one
 21 particular intervention called Circles of Support and
 22 Accountability, and that intervention is for people who
 23 are returning to the communities after serving time in
 24 prison for child sexual abuse. That intervention has
 25 been shown to significantly reduce the likelihood of

1 interventions but also from, you know, the scorn and
 2 stigma that attaches appropriately to people who
 3 sexually offend against children.

4 BY MR. DAMICH:

5 Q. Okay, so then do you believe that the sex
 6 offender -- potential of being on a sex offender
 7 registry could act as a deterrent to those predisposed
 8 to have sex with minors?

9 **A. I don't know. There has never been a research**
 10 **study that has looked at whether registration works as a**
 11 **primary prevention tool with people specifically who**
 12 **have some -- who are predisposed, in your words, to**
 13 **offend against children.**

14 Q. I don't want to say a primary prevention tool but
 15 one of many factors that could be considered as a
 16 deterrent?

17 **A. So when I use the word primary prevention I mean**
 18 **it in the sense of -- the public health sense, so we**
 19 **have primary prevention before any harm has occurred.**

20 Q. Okay.

21 **A. I think that's what you're asking about.**

22 Q. Sure. Yeah, I mean just what I'm getting at is
 23 the idea behind deterring an individual from acting on
 24 their predisposition to sexually encounter a minor and
 25 the fear that being on the registry might cause could

27

29

1 recidivism among offenders.

2 Q. Do you think that it's possible that an
 3 individual who is predisposed to act on a sexual
 4 attraction to a child would be deterred from doing so,
 5 not solely, but would it play a factor in the
 6 determination if -- because the result would be they'd
 7 find themselves on the sex offender registry?

8 **A. Can you restate the question, please?**

9 Q. Absolutely, yes. Do you believe that it's
 10 possible that there are individuals who are predisposed
 11 to have sexual attractions to minors to not act on those
 12 predispositions because they are deterred by the fact
 13 that they might find themselves on the sex offender
 14 registry if caught?

15 MS. AUKERMAN: Objection, vague. You can
 16 answer if you understand the question.

17 THE WITNESS: Thank you. I think that
 18 people who are sexually attracted to children and who
 19 choose not to act on that attraction choose not to act
 20 on that attraction for many different reasons. The
 21 individuals with whom I've interacted as part of our
 22 research did not want to hurt children and that is why
 23 they -- that was one of the main reasons they gave.
 24 They also do want to keep themselves safe, by safe they
 25 generally meant from, you know, both criminal justice

1 act as a deterrent effect, it could be one of the many
 2 factors that causes them not to act; is that correct?

3 MS. AUKERMAN: Objection, compound, form and
 4 foundation.

5 THE WITNESS: Again, I think that there are
 6 many reasons that people who might offend against
 7 children choose not to do so.

8 BY MR. DAMICH:

9 Q. Okay. If the fear of being listed on the
 10 registry caused a potential sex abuser or sex offender
 11 to not act, wouldn't you agree that it was effective?

12 **A. The registry is not meant to serve as a primary**
 13 **deterrent to first time sex crimes, is my understanding.**
 14 **My understanding is the impact of the registry is to**
 15 **deter recidivism from known offenders.**

16 Q. Okay. And do you think that -- okay, for those
 17 known offenders and deterring recidivism, do you think
 18 the fear of now they are already -- they will already be
 19 on the list, those first time offenders, the fear of
 20 being on the list could prevent first time offenders
 21 from acting, correct?

22 MS. AUKERMAN: Objection, calls for
 23 speculation, asked and answered.

24 THE WITNESS: Do you want me to repeat my
 25 answer?

1 BY MR. DAMICH:

2 Q. Yes.

3 **A. Okay. I believe that the registry is not**
 4 **intended to serve as a primary deterrent of first time**
 5 **sex crimes, that it is predicated on the understanding**
 6 **that it would deter recidivism events. And that people**
 7 **who might be predisposed or may be at risk of offending**
 8 **against children have many reasons to avoid engaging in**
 9 **harm against children.**

10 Q. I'll go ahead and share my screen again.

11 Hopefully I don't drop the call because I do this, but
 12 if I do I apologize. Okay, could you let me know when
 13 the document pops up?

14 **A. I can see it.**

15 Q. And what's appearing on your screen right now?

16 **A. My affidavit.**

17 MR. DAMICH: And I'm going to -- if it's
 18 okay I'd like to mark this as Exhibit C.

19 (Whereupon Deposition Exhibit C
 20 marked for identification.)

21 BY MR. DAMICH:

22 Q. And what is this affidavit for?

23 **A. I believe it's to document my expertise in the**
 24 **area of sex offender registration and notification and**
 25 **my understanding of the inability of these policies to**

1 **opinion about this or anything else.**

2 Q. Okay. Now, going back to the registration -- or
 3 sex offender registration's failure to protect the
 4 public, imagine a hypothetical where you have an
 5 individual who moves in next door, say who is 25 years
 6 old -- or say 30 years old and they were -- they are
 7 predisposed to -- they are sexually attracted to minors.
 8 And if you lived next door to this individual and you
 9 have children would you want to know if this person
 10 perhaps was previously arrested for this individual
 11 acting on this predisposition to abuse minors?

12 MS. AUKERMAN: Objection, compound, form and
 13 foundation.

14 THE WITNESS: So first of all, the registry
 15 does not tell anybody if somebody is sexually attracted
 16 to children. Again, most sex crimes are committed by
 17 people who do not have strong sexual attraction to
 18 children, so that's not a piece of information that you
 19 can obtain from the registry. I believe very strongly
 20 that all children should grow up free from abuse. The
 21 registry does not increase the likelihood that children
 22 grow up free from abuse and, in fact, it increases the
 23 likelihood I believe that children will be abused.

24 BY MR. DAMICH:

25 Q. How? Can you explain to me how you believe it

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33

1 **prevent sexual violence.**

2 Q. Okay. I'd like to scroll down here to page two
 3 where it says research findings, do you see that? I'll
 4 zoom in a little bit, is that better?

5 **A. I do see it.**

6 Q. Okay, it says research findings. It says under
 7 number six, it says, as I detail in the sections below,
 8 my research and that of others in my field finds that
 9 sex offender registration and notification laws like
 10 Michigan's fail to improve community safety in any way.
 11 Now, we just talked about the potential -- I mean I know
 12 there was some back and forth about the potential of it
 13 being a deterrent effect, I know you disagree with that,
 14 but do SORN laws benefit the victims in any way?

15 **A. I don't think there is any kind of generalization**
 16 **for what benefits all victims of child sexual abuse or**
 17 **sexual violence.**

18 Q. Okay. So you don't think there would be any kind
 19 of benefit?

20 **A. I don't think that there is anything that**
 21 **suggests that these policies are effective in preventing**
 22 **sexual abuse or sexual violence, which is what they are**
 23 **intended to do.**

24 Q. Okay.

25 **A. I also don't think all victims share the same**

1 would increase the likelihood of child abuse?

2 **A. Yes. We have two papers, one that's been**
 3 **published, one that's under review for publication**
 4 **linking sex offender registration of children who**
 5 **committed sex crimes as minors to increased risk for**
 6 **being approached by adults for sex. So in our research**
 7 **children who were registered compared to children who**
 8 **committed similar crimes but were not required to**
 9 **register were five times more likely to be approached by**
 10 **an adult for sex in the past year, and they were twice**
 11 **as likely to have been sexually assaulted in the past**
 12 **year.**

13 They were also four times more likely to
 14 have attempted suicide in the past 30 days prior to the
 15 survey, again, than children who had committed similar
 16 crimes but were not required to register. So this
 17 policy is particularly devastating when it's applied to
 18 children.

19 Q. And you said there were two studies?

20 **A. Correct.**

21 Q. And which studies are those?

22 **A. One of them is my publication on the collateral**
 23 **consequences of child sexual abuse -- or, sorry, of**
 24 **juvenile sex offender registration notification, I can**
 25 **give you the proper citation for that. It is cited in**

1 my --

2 Q. And what year was that published?

3 A. It was -- wait, so I misspoke, there's three
4 papers. One was published in 2015, one paper was
5 published in 2018, and our third paper, which actually
6 pertains to young adults ages 18 to 21 where we found,
7 again, the increase in suicidality and suicide attempts
8 is under review for publication, so it has not yet been
9 published.

10 Q. Are all of these papers limited to research of
11 juveniles?

12 A. The one --

13 MS. AUKERMAN: Objection, misstates her
14 testimony.

15 THE WITNESS: The paper that's currently
16 under review examines young adults ages 18 to 21.

17 BY MR. DAMICH:

18 Q. And the previous two?

19 A. Pertain to children under the age of 18.

20 Q. Okay, they both do?

21 A. Yes.

22 Q. Moving on, the same page here in your report, how
23 did you come to the opinion that Michigan SORA makes it
24 more difficult for sex offenders to find and maintain
25 housing?

1 A. The research --

2 MS. AUKERMAN: Objection, it
3 misstates -- mischaracterizes her report.

4 THE WITNESS: So the research is not
5 specific to Michigan, it's specific to many states. Sex
6 offender registration notification policies and much of
7 this research pertains to surveys of people on
8 registries and identifies the negative impact that
9 registration has on finding and maintaining housing,
10 finding and maintaining employment, and finding and
11 maintaining relationships with prosocial peers and
12 family members, which is relevant because, as the
13 Department of Justice has identified, stable housing,
14 stable employment, stable prosocial relationships with
15 non-offending peers and family members are key to
16 successful reentry for people returning into their
17 communities from prisons.

18 BY MR. DAMICH:

19 Q. Do you know how large the sample size was of the
20 study or the surveys that you reviewed and everything?

21 A. There's several, I would have to go back and
22 look. I believe that they were relatively large and
23 perhaps in the hundreds, but I would have to look at the
24 research.

25 Q. And do you know approximately when that research

1 was done?

2 A. Across a period of time, you know, I don't know
3 specifically.

4 Q. And did you look at any research specific to
5 Michigan?

6 A. I would have to go back and look and see if
7 Michigan -- if people were recruited from Michigan or
8 not.

9 Q. Okay. And so how did you -- another question I
10 have is how did you come to the opinion that Michigan
11 SORA makes it difficult for sex offenders to find
12 employment?

13 A. So, again, these statements pertain to sex
14 offender registration and notification policies in
15 general and not specifically to Michigan. And, again,
16 the results -- those findings are based primarily on
17 surveys in which people on registries were interviewed
18 or responded to questions about the impacts. They also
19 include research from probation officers and parole
20 officers who -- community supervisors of people who have
21 been released from prison and are on our registries, and
22 one of the single largest concern of community
23 supervisors is that the registered offenders aren't able
24 to find stable housing or stable employment, which is
25 often a condition of probation or parole. And they

1 spend a lot of their time trying to help their parolees
2 and their probationers find housing and find employment.

3 Q. And what do you believe are the major
4 contributing factors that cause these individuals to not
5 find employment?

6 A. I believe that a major contributing factor is the
7 fact that they are on sex offender registries.

8 Q. The same question for housing?

9 A. Correct, I believe that it's the same reason,
10 that they are on sex offender registries.

11 Q. So in your studies, what are some ways that the
12 registry -- that being on the registry has impacted an
13 individual's ability to maintain housing?

14 A. My research has not focused on looking at the
15 impact on housing, I'm citing other published research
16 in the literature.

17 Q. And you also talk about how sex offender
18 registration policies make it difficult for sex
19 offenders to find and maintain prosocial positive
20 relationships. Could you kind of -- could you explain
21 that to me?

22 A. Yes. For example, in our research with people
23 who were registered in comparison to people who had
24 committed sex crimes but were not registered we found
25 increased helplessness and increased isolation. And so

1 **one thing that happens is -- that appears to happen is**
 2 **that people become afraid of being out in the public,**
 3 **afraid of being harassed, which they also report**
 4 **experiencing. And so they kind of self-isolate and that**
 5 **is going to impact relationships as well as employment.**

6 Q. And then you talk about how policies are costly
 7 and they waste taxpayer funds. On what basis did you
 8 form that opinion or those opinions?

9 **A. There are a couple of bases for that. First and**
 10 **foremost interventions can be clinically effective,**
 11 **registration and notification are not. They are not**
 12 **effective at achieving reduced sexual violence. If**
 13 **you're not effective in your main goal you cannot be**
 14 **cost effective, so you fund an intervention or a policy**
 15 **in this case that is an ineffective policy, by**
 16 **definition you cannot have a cost effective policy, you**
 17 **have a cost wasting policy, so that's one thing.**

18 And then in terms of the actual expenses, I
 19 cite in my affidavit a number of states that -- or
 20 local -- state or local offices that looked at the cost
 21 of implementing sex offender registration notification
 22 and found that those costs were quite high. There are
 23 also a couple of publications. There's one sort of cost
 24 effectiveness analysis that was conducted by an
 25 organization called R Street, the letter R Street, which

1 Q. Do you know the total amount of Austin, Texas'
 2 overall budget?

3 **A. I do not.**

4 Q. And you also reference a study in California,
 5 correct, a 2008 report?

6 **A. Yes.**

7 Q. In that report California estimated the local
 8 costs to implement SORNA approached the 102 million. Do
 9 you see that?

10 **A. I do.**

11 Q. Did you confirm that those estimates were, in
 12 fact, accurate, and that they came to fruition?

13 **A. I did not.**

14 Q. Have you reviewed California's budget since, a
 15 more recent budget of California in its implementation
 16 of SORNA or SORA, its version of SORA?

17 **A. No.**

18 Q. Do you know what the total amount of California's
 19 budget was in 2008?

20 **A. I do not.**

21 Q. All right. Then you reference a Florida
 22 report -- a Florida report, a 2008 report, correct?

23 **A. Correct.**

24 Q. Okay. That report was also an estimate, correct?

25 **A. They used the language that the Florida Senate**

39

1 I understand to be kind of a libertarian organization.
 2 So they looked at the cost of juvenile registration in
 3 particular and estimated that nationally it runs in the
 4 billions of dollars.

5 Q. So you had mentioned some of the studies you
 6 reference in your report regarding the cost
 7 effectiveness of these type of policies. I'm going to
 8 go ahead and -- I believe it's on page 18, I'm going to
 9 scroll down just to be sure here so we can go through
 10 those. Yes, right here on page 18, is this what you
 11 are -- or not page 18, paragraph 18 on page 18 of your
 12 report, are these the reports you're referring to
 13 regarding the cost estimates?

14 **A. Yes.**

15 Q. So the first one talks about a cost estimate for
 16 Austin, Texas, correct?

17 **A. Correct.**

18 Q. And it is in 2009?

19 **A. Correct.**

20 Q. And it says, the Austin Police Department
 21 estimated that complying with the Adam Walsh Act would
 22 result in 137 percent increase to its budget. Did you
 23 ever confirm if it did, in fact, increase its budget by
 24 137 percent?

25 **A. I did not.**

41

1 **estimated the likely cost of complying with SORNA.**

2 Q. And did you confirm that that was the actual cost
 3 for 2008?

4 **A. I did not confirm with the Florida Senate that**
 5 **that was the actual cost.**

6 Q. And have you since looked at Florida's budget to
 7 comply with SORNA?

8 **A. I have not.**

9 MS. AUKERMAN: Objection, it assumes facts
 10 not in evidence. You're assuming that all of these
 11 states actually implemented SORNA and those are facts
 12 not in evidence.

13 MR. DAMICH: Okay, noted.

14 BY MR. DAMICH:

15 Q. Do you know what percentage 3.2 million
 16 represents of Florida's 2008 budget?

17 **A. I do not.**

18 Q. You also reference a study from New Jersey and
 19 the study was in 2007, correct?

20 **A. Correct. Scott, did you hear me?**

21 Q. Yeah, I did.

22 **A. Okay.**

23 Q. It appears that this one was not based off of an
 24 estimation, this was actually raw data, correct? I mean
 25 it looks like this is what....

1 **A. It looks like that, yes.**
 2 Q. Do you know how much -- what percentage 555,000
 3 represents in New Jersey's budget in a year?
 4 **A. I do not. No, I do not.**
 5 Q. The same question with four million dollars?
 6 **A. I do not.**
 7 Q. You then reference an Oregon study, a 2008 Oregon
 8 study.
 9 **A. Yes.**
 10 Q. And that was also an estimated total cost?
 11 **A. Yes.**
 12 Q. Okay. Did you confirm that that was the actual
 13 amount of their budget?
 14 **A. I did not.**
 15 Q. And do you know --
 16 MS. AUKERMAN: Objection, same objection,
 17 assumes facts not in evidence.
 18 BY MR. DAMICH:
 19 Q. Okay. Do you know what percentage \$850,000 was
 20 of Oregon's overall 2008 budget?
 21 **A. No.**
 22 Q. Okay, you also reference a study in Vermont, a
 23 2008 report?
 24 **A. Correct.**
 25 Q. Okay. And it says that the state indicated that

1 **Q. In your report here you say, modern SORN laws**
 2 **fail to make the public safer because sexual recidivism**
 3 **rates are low to begin with. What is your definition of**
 4 **recidivism?**
 5 **A. My definition of recidivism is a new charge for**
 6 **adjudication or conviction following the original or**
 7 **index adjudication or conviction.**
 8 **Q. Okay. So recidivism has to -- for you it means a**
 9 **new charge, adjudication, and/or conviction?**
 10 **A. Yes. I use adjudication to refer to cases**
 11 **involving children under the age of 18 who are being**
 12 **tried in juvenile or family court, conviction of adults**
 13 **or juveniles being tried as adults.**
 14 **Q. Okay, you say, such laws fail to distinguish**
 15 **between the large percentage of people who present a**
 16 **lower risk of reoffending (especially over time) and the**
 17 **much smaller percentage of people who present a higher**
 18 **risk of reoffending (although that risk also decreases**
 19 **over time). Can you explain that portion to me?**
 20 **A. Yes. People who commit sex crimes vary in terms**
 21 **of their likelihood of committing another crime once**
 22 **they've been detected and held accountable. Most people**
 23 **will not go on to garner new charges or new**
 24 **adjudications or convictions for sex crimes once they've**
 25 **been detected and held accountable. So that number for**

43
 1 the likely costs of complying with SORNA would approach
 2 3.9 million in year one of implementation. Did you
 3 confirm that that information was accurate?
 4 MS. AUKERMAN: Again, assumes implementation
 5 of SORNA, facts not in evidence.
 6 THE WITNESS: I did not.
 7 BY MR. DAMICH:
 8 Q. Do you know what percentage 3.9 million
 9 represents of Vermont's overall 2008 budget?
 10 **A. No.**
 11 Q. Bear with me a second, I have to go back to the
 12 beginning. Are you of the opinion that Michigan's SORA
 13 increases the likelihood that registrants will
 14 recidivate?
 15 **A. When you say recidivate do you mean with a new**
 16 **sex crime or with new crimes in general?**
 17 Q. With a new sex crime.
 18 **A. I am not of that opinion.**
 19 Q. Okay. So you do not believe the Michigan SORA
 20 increases the likelihood that registrants would
 21 recidivate?
 22 **A. With a new sex crime, correct.**
 23 Q. Do you think other felons have difficulty finding
 24 housing and obtaining employment?
 25 **A. Yes.**

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 1 **adults with a prior sex crime conviction is around 80**
 2 **percent will not go on to garner a new sex crime**
 3 **conviction. Approximately 20 percent will over time.**
 4 **For children the numbers are actually much, much lower**
 5 **even than that, about 97 percent of children with an**
 6 **adjudication for a sex crime will not garner a new**
 7 **adjudication or conviction for sex crime over time, less**
 8 **than three percent will.**
 9 Q. But not being convicted doesn't mean that they
 10 won't commit another sex crime, right?
 11 **A. True. Conviction is not the only measure of sex**
 12 **crimes and it does not capture all sex crimes.**
 13 Q. Sure. And would you agree that most sex crimes
 14 are not reported to police?
 15 **A. As I mentioned earlier, research by the**
 16 **department, the U.S. Department of Justice, suggests**
 17 **that about 48 percent of sex crimes are reported to the**
 18 **police. And new research is emerging that suggests that**
 19 **people with prior convictions are even more likely to be**
 20 **reported if they commit a new sex crime.**
 21 Q. And those that are reported to the police not
 22 always are convicted, correct?
 23 **A. That's correct, that's why it's important to look**
 24 **at charges and convictions. I am going to need a bio**
 25 **break.**

1 Q. Yes.

2 A. **Is this a good time to take five?**

3 Q. Yeah, absolutely. That was one of the best
4 requests I've heard in my lifetime of depositions so
5 thank you for that. If we can come back in how about
6 quarter after?

7 A. **Sure, that's plenty of time.**

8 MR. DAMICH: All right, sounds good. See
9 you in a bit.

10 THE WITNESS: Thanks.

11 (A recess was taken.)

12 MR. DAMICH: Back on the record.

13 BY MR. DAMICH:

14 Q. Before we took a break we were working through
15 the report you submitted in this case and if it's okay
16 with you we're going to go back and discuss a little bit
17 more some of your opinions in that report. If we could
18 go back to page three of that report, which is ECF
19 number 1-5, page ID 401. You indicate here that without
20 exception the entire published literature focusing on
21 juvenile registration and notification fails to find any
22 public safety effect of SORNA-based laws. Now, just to
23 be clear, that's limited to juvenile registration and
24 notification, correct?

25 A. **Before I answer do you mean to be sharing your**

1 **and notification are ineffective, they don't reduce the
2 likelihood of recidivism.**

3 And then two studies on either side indicate
4 that registration was associated with increased sexual
5 recidivism or other types of recidivism, and two studies
6 suggest that it was associated with reduced recidivism.
7 As a scientist when I look at the entire field of
8 published research that strongly suggests to me that
9 this is just a failed -- these are failed policies.

10 Q. Fair. So that's just based off of -- so your
11 opinion is that it's -- it's failed policies to adults
12 as well, and that's based off of just your review of
13 other -- of your peers' research, correct?

14 A. **My research and my peers' research, yes.**

15 Q. Okay.

16 A. **I will say, if I can continue my answer a little
17 bit.**

18 Q. Yes, absolutely.

19 A. **It's extremely uncommon in any field of science,
20 policy science, social science, criminology, to find
21 that the entire published literature agrees. So the
22 fact that we have that with juvenile registration being
23 universally identified as a failed policy is an
24 unusually strong finding. It is much more common, as we
25 have with the adult field, to have kind of a majority of**

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1 **screen or do you want me to use my copy to look up the
2 section?**

3 Q. I mean to be sharing my screen and I didn't
4 realize it's not sharing anymore so I appreciate that.
5 There you go, you're following my instructions perfectly
6 because you weren't assuming. Thank you.

7 A. **I can see it now.**

8 Q. Okay, what I was reading from is right here, it's
9 the third bullet point down, it starts, without
10 exception. And then the question that I asked was that
11 statement is limited to juvenile registration and
12 notification, correct?

13 A. **Correct.**

14 Q. Does the same hold true for adult registration
15 and notification?

16 A. **It does not.**

17 Q. And why is that not true for the adult
18 population?

19 A. **I mean I don't know why it's not true, I will
20 tell you. The great majority, over 80 percent of the
21 published literature fails to find any positive impact
22 of registration. Another two studies find specific
23 negative impacts, and another two studies do find
24 positive. So of the studies that I'm aware of, the bulk
25 either show -- the bulk simply show that registration**

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1 **the research finding that it doesn't work and then
2 having a couple of other studies that may come up with
3 different results.**

4 But as you build the science and you get ten
5 and twelve and 14 publications, different studies
6 showing the same thing, that it doesn't work, then the
7 one or two that suggest it's harmful or the one or two
8 that suggest it's helpful become less relevant.

9 Q. Okay. In the next bullet point there you talk
10 about how such laws have unintended consequences that
11 put the public at greater risk. And you talk about how
12 like more sex offenders being pled down to non-sex
13 offenses to avoid the onerous consequences of the
14 registry and lower conviction rates for those cases that
15 were not pled out but went forward to trial. Do you
16 still agree with that statement?

17 A. **Yes.**

18 Q. So then is it fair to say that you agree with the
19 statement that this causes an under- -- a lower
20 conviction rate, it causes a lower rate of conviction of
21 sex offenses?

22 A. **No, that would not be the correct interpretation.**

23 Q. Okay, and why is it wrong?

24 A. **The research that we did looked at the likelihood
25 of plea bargains over time before and after registration**

1 **was implemented and also before and after online**
 2 **notification was implemented. So we looked at the rate**
 3 **of plea bargains, we found massive increases in people**
 4 **pleading from sex crimes to non-sex crimes, not even to**
 5 **lower level sex crimes but to non-sex crimes, so**
 6 **pleading out of type once registration was implemented**
 7 **and then again even more so when online registration was**
 8 **implemented.**

9 And then we also looked at cases that didn't
 10 plead where the sex offense or a sex offense went
 11 through from arrest to charge to the conviction process,
 12 and we found significantly reduced likelihood,
 13 statistically significantly reduced likelihood, that
 14 people who were charged with sex crimes, that they would
 15 be found guilty after online registration went into
 16 practice compared to before there was registration or
 17 online notification.

18 We cannot say on the basis of a single study
 19 and of a kind of a time series analysis like that that
 20 registration caused or notification caused that change.
 21 In that particular study we did reach out to prosecutors
 22 and judges to ask them to help us interpret this
 23 finding, that guilty findings went down. And what we
 24 heard anecdotally was that indeed judges and juries were
 25 concerned about finding somebody guilty if one of the

1 fact, offended, they became less willing to subject
 2 people to that consequence. There is research in
 3 criminology that shows that when judges and juries
 4 believe that a consequence is too severe relative to the
 5 offense that they will find ways around it, and one of
 6 those ways is to find people not guilty even if they
 7 believe they are guilty. So I think that's what was
 8 happening.

9 Q. Previously we were having a discussion about the
 10 benefits of the registry to victims and you brought up
 11 the idea of what happened in your recent response, the
 12 idea of reducing charges, sex charges, and pleading down
 13 to avoid the registry and the impact that would have on
 14 the victim, right?

15 A. **I didn't talk about benefits of the registration**
 16 **to victims because I don't think we -- as a class we can**
 17 **assume what somebody who survives sexual abuse thinks**
 18 **about the registry.**

19 Q. Sure. In the instance where the parties plead
 20 down to a situation where they don't have to register,
 21 which means then it goes from being a sex offense to a
 22 non-sex offense, the victim, you talk about how that
 23 would hurt the victim, correct?

24 A. **I believe that it can be harmful to people who**
 25 **bring forward their own victimization and who encounter**

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1 consequences was going to be placed on a lifetime sex
 2 offender registry, public sex offender registry.

3 But we didn't do a study to specifically
 4 identify what was the thinking of the people making
 5 those decisions. That would require a different study.

6 Q. Couldn't your research conclude, though, that
 7 then you can say that that's a way that, in fact, the
 8 registration is working, in other words, it's filtering
 9 out the individuals that shouldn't be on the registry,
 10 for instance, and allowing the prosecutor, judge,
 11 defense attorney to figure that out closer in time to
 12 the actual conviction itself?

13 A. **I think my interpretation is that it was**
 14 **extremely damaging, actually. That if a survivor comes**
 15 **forward to say that they were sexually abused, watches**
 16 **this case go through and we see reduced likelihood of**
 17 **guilty findings after online registration goes into**
 18 **place compared to before, to me that actually -- I don't**
 19 **think that there are fewer -- I don't think that there**
 20 **were more irrelevant cases going forward or more not**
 21 **guilty cases going forward over time.**

22 I think that a more parsimonious explanation
 23 is that in light of this consequence, lifetime public
 24 registration, judges and juries became less willing to
 25 subject some offenders to that. Some people who had, in

1 **a legal system that -- and a policy that is associated**
 2 **with vastly increasing the likelihood that somebody will**
 3 **successfully plead to a non-sexual offense. I think**
 4 **that doesn't serve victims. I also don't think it**
 5 **serves offenders because again anecdotally what we heard**
 6 **is that then they won't give sex offender specific**
 7 **treatment because people in the system, the criminal**
 8 **justice system, don't have the time to go back and**
 9 **figure out what was the original charge.**

10 And so people who get convicted or
 11 adjudicated in the case of children of assault, so the
 12 most typical plea was from a sexual offense, charged
 13 down to a physical assault charge, that they will get
 14 anger management or that they'll get some kind of
 15 treatment that aligns with physical assault, but they
 16 won't get treatment that aligns with sex offending. And
 17 so I think that it doesn't serve -- I don't think it
 18 serves anybody well to have cases plead, huge, huge
 19 numbers of cases plead to an offense that wasn't what
 20 was alleged to have taken place.

21 Q. Do you think that some victims might feel like
 22 their voices are being heard if their perpetrators are
 23 on a registry?

24 MS. AUKERMAN: Objection, calls for
 25 speculation.

1 THE WITNESS: I would prefer not to
 2 speculate about what people who have survived child
 3 sexual abuse feel or think.

4 BY MR. DAMICH:

5 Q. Do you think it's out of all the realms of
 6 possibility, though?

7 MS. AUKERMAN: Objection, calls for
 8 speculation.

9 THE WITNESS: I don't think it's out of the
 10 realm of possibility.

11 BY MR. DAMICH:

12 Q. Okay. You then mention again about how such laws
 13 are expensive to implement and maintain, wasting
 14 government resources that could be used to make
 15 communities safer and reduce sexual offending. Do you
 16 still believe that statement to be true?

17 A. Yes.

18 Q. And is that statement based off of the studies we
 19 previously discussed as far as the estimation of budgets
 20 for certain jurisdictions to implement SORNA?

21 A. **There were a couple of resources that I cited
 22 that you and I did not review specifically that are also
 23 informing that belief.**

24 Q. And what resources are those?

25 A. **They are also in my affidavit. So there was some**

1 MS. AUKERMAN: Objection, calls for
 2 speculation. Calls for a legal conclusion.

3 THE WITNESS: I'm not an expert on
 4 government spending.

5 BY MR. DAMICH:

6 Q. Okay. But do you understand it's the legislature
 7 that is the body that makes policy decisions, correct?

8 MS. AUKERMAN: Calls for a legal conclusion.

9 THE WITNESS: I understand the legislatures
 10 are policymakers.

11 BY MR. DAMICH:

12 Q. You go on further to say that such laws put
 13 misplaced emphasis on monitoring and enforcing
 14 compliance violations-and clogging the courts and
 15 filling up jails and prisons. What data do you rely on
 16 to support your opinion that enforcement of SORA is
 17 clogging up courts and filling up jails and prisons?

18 A. **There I'm relying on research and findings that
 19 the most common charge for which people on registries --
 20 their most common offense for which people on registries
 21 are charged are registry violations, but that accounts
 22 for a large percentage of people being returned to
 23 prison and also research finding that often those
 24 violations had nothing to do with the likelihood that
 25 they were ever going to reoffend sexually but had to do**

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1 **work by the government accountability office, the USGAO
 2 office, where they were reaching out to states that were
 3 not yet in compliance with the Adam Walsh Act, which
 4 most states are not in compliance with the Adam Walsh
 5 Act, to figure out why and cost was a significant
 6 barrier, and I think they identified a particularly high
 7 cost. There's another survey that I mentioned that
 8 looks at and tried to estimate the cost for each state
 9 that also came up with costs. And then a colleague of
 10 mine, Kristin Zgoba, had looked at the expenses related
 11 to New Jersey's Megan's law and also identified some
 12 pretty significant costs.**

13 And then too every dollar spent on a failed
 14 policy is a wasted dollar that cannot go to more
 15 effective strategies. And so by definition because
 16 these policies are failed policies that don't achieve
 17 their aim of reducing recidivism, all of that money is
 18 wasted and really should go towards effective policies
 19 and strategies that can reduce sexual abuse and sexual
 20 violence.

21 Q. Okay. But aren't many laws expensive to
 22 maintain?

23 A. **I don't know. I don't know.**

24 Q. Okay. And, of course, the expenditure of
 25 government resources, that's a policy decision, correct?

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1 **with other factors, for example, being confused about
 2 when they had to register new information or reregister.**
 3 And our research also showed that it was
 4 younger people who were on registries who were more
 5 likely to garner failure to register convictions. And
 6 we believe that that was because these people are either
 7 easily confused and/or kind of young and dumb is the way
 8 I put it, that younger people are less likely to conform
 9 with expectations and tend to grow out of that over
 10 time.

11 And I should clarify that failure to
 12 register doesn't actually necessarily mean that the
 13 person never registered or even that they failed to
 14 register, but it's a broad term to indicate that
 15 something might have been incorrect or left out or was
 16 provided after what are often very relatively and
 17 legitimately short due dates. And that that just hasn't
 18 been found to be associated with risk for sexual
 19 offending.

20 So, for example, the idea that the failure
 21 to register would automatically require time in prison
 22 or return to prison doesn't make sense if, for example,
 23 somebody was legitimately trying to register and
 24 couldn't because, you know, it was Memorial Day or
 25 something and they were a day late, that's what I mean.

1 Q. In formulating your opinion did you review how
 2 many people in Michigan were charged with violating SORA
 3 in the past, say, five years?

4 **A. My study was not based on Michigan data.**

5 Q. Did you review Michigan court systems to see how
 6 many cases were pending where a violation of Michigan
 7 SORA is at issue?

8 **A. No.**

9 Q. So is it fair to say that you're not -- you don't
 10 know whether or not violations are clogging up
 11 Michigan's court systems?

12 MS. AUKERMAN: Objection, misstates her
 13 testimony.

14 THE WITNESS: I think it's fair to say that
 15 these are clogging up the courts actually. I think
 16 there's sufficient information from across the country
 17 that that is a reasonable belief. It is also knowable,
 18 somebody could look up those numbers.

19 BY MR. DAMICH:

20 Q. You said, the risk of sexual offense recidivism
 21 can be lowered by laws that address the factors
 22 empirically shown to increase risk. What are those
 23 factors that are empirically shown to increase risk?

24 **A. Inability to find and maintain employment,
 25 inability to find and maintain housing, inability to**

1 Also, prevention programs work so there are
 2 some evidence-based well-validated by which I mean
 3 multiple randomized control trial studies that show that
 4 you can prevent the onset of problem sexual behavior
 5 among teens. So there's two evidence-based school-based
 6 prevention programs that work to prevent the onset of
 7 sexual offending against peers. And then we have a
 8 program that shows promise for preventing the onset of
 9 sexual abuse of younger children by teenagers.

10 Q. I'm going to scroll down to page 12 here. Sorry
 11 for the delay there, I was just gathering my thoughts.

12 **A. Sure.**

13 Q. Okay. Under number 11 here you say, there is no
 14 reason to believe-even remotely-that registration and
 15 notification laws will have any beneficial impact when
 16 applied to children. Do you see that?

17 **A. I do.**

18 Q. And do you believe the same to be true for
 19 adults?

20 **A. I believe that it is vanishingly unlikely that
 21 registration and notification will have any beneficial
 22 impact on adults. However, the literature on -- the
 23 published literature on the impact of these policies on
 24 children is absolutely uniform, so there is no reason to
 25 believe even remotely that these policies should ever be**

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1 **find and maintain social relationships are three of the
 2 largest risks for people who are returning to
 3 communities from prison to fail, to not be able to
 4 maintain a law abiding lifestyle.**

5 Q. So then that would cause them to then recommit a
 6 sexual offense?

7 **A. It increases the likelihood of recidivism in
 8 general. In terms of sexual offense recidivism, what
 9 can work there are evidence based treatments. For
 10 example, Circles of Support and Accountability for
 11 adults and for children, there are at least two very
 12 well evidence-based effective treatments that
 13 significantly reduce the likelihood of recidivism. With
 14 kids, I have to say we don't know that the interventions
 15 reduced the likelihood of sexual events recidivism
 16 because those rates are below three percent and they
 17 almost never happen.**

18 And so we do know that these two
 19 evidence-based interventions reduce reoffending in
 20 general and improve other outcomes for kids, like
 21 improve parent/child relationships and school outcomes
 22 and the like. But because sexual reoffenses are so, so
 23 rare among kids who have been adjudicated delinquent of
 24 sex crimes nobody's been able to show that these impact
 25 and make it even lower.

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1 **applied to children. I think that these policies are
 2 failed policies with adults as well, but, again, there
 3 are, you know, two studies that show that -- suggest
 4 that these policies increase recidivism risk, two
 5 studies that show that they decrease recidivism risk, so
 6 I think they are failed policies. I think that is a
 7 very -- I think that's the most logical conclusion from
 8 the bulk of the science, but I use stronger language
 9 when I talk about these policies and the impact that
 10 they have on children because the research is
 11 unambiguous.**

12 Q. Okay. I'm going to go down to number twelve here
 13 and I think you're discussing why SORNA -- your opinion
 14 why SORNA based laws fail to reduce recidivism. In
 15 number twelve here you say, sex offender registration
 16 and notification policies fail, in part, because they
 17 are based on the common misunderstanding that most
 18 people who commit one sexual offense are at high risk to
 19 commit a second sexual offense. In fact, nearly all
 20 methodologically rigorous research studies find that 80
 21 percent to 90 percent of adult male sex offenders are
 22 never reconvicted of a new sexual crime. I'm going to
 23 focus on your use of the word reconvicted. Not being
 24 reconvicted does not mean another sex crime didn't
 25 occur, right?

1 **A. Correct.**

2 Q. And if we go down to here on page -- it's going
3 to be page ID 411, it will be page 13 of your report, in
4 C you indicate that over 25 years 18 percent did
5 reoffend, right?

6 **A. Yes, over 25 years 18 percent of men convicted of
7 sex crimes had a new sex crime conviction.**

8 Q. Okay. And 18 percent reoffense rate, is that an
9 acceptable rate for you?

10 MS. AUKERMAN: Objection, calls for
11 speculation, unclear.

12 THE WITNESS: I don't think any sex crime is
13 acceptable.

14 BY MR. DAMICH:

15 Q. If 18 percent of the general population commit
16 two sex offenses when they are convicted over a 25 year
17 period?

18 **A. Can you restate the question?**

19 Q. Sure. Does 18 percent of the general population
20 commit two sex offenses when they are convicted over a
21 25 year period?

22 MS. AUKERMAN: Objection, vague. Vague and
23 confusing, you're mixing various different aspects of
24 the question here.

25 MR. DAMICH: Sure.

1 State's registration and notification policy and that
2 they did not find an increase in plea bargains because
3 of notification, but then you mentioned that New York's
4 policy is more narrowly crafted than South Carolina's.
5 Can you explain that to me?

6 **A. Yes. So we have two studies and to my knowledge
7 still only two studies that look at or try to assess the
8 impact of registration notification policies on the
9 likelihood of pleading down to lesser offenses and
10 pleading to other types of offenses that are not sex
11 crimes. In my study, which relied on data from South
12 Carolina, we found a market increase in plea bargains
13 down to non-sex offenses. And importantly we did not
14 find that kind of change for other types of offenses so
15 we also looked at robbery and physical assault offenses
16 and didn't find anything like that over the time period
17 that we were looking at. Those comparison analyses are
18 important because they lend more credence to the idea
19 that the pleas were in direct response to trying to stay
20 off the registry and not for other reasons.**

21 Colleagues in New York did not find a change
22 in plea bargains after New York implemented its
23 registration notification policy, but there were some
24 distinct differences. So, you know, we try to
25 understand why would two studies that were quite similar

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1 THE WITNESS: When we talk about the general
2 population we typically mean the general population, not
3 forensic population, as defined by people who have a
4 conviction.

5 BY MR. DAMICH:

6 Q. Okay, I'm going to scroll back up to I believe
7 there's some studies that were done that you referred to
8 here on page 12 and 13, into 13. In B you say, in the
9 same South Carolina study we found that registration had
10 no effect on reoffense rates; that is, registration
11 failed to reduce the recidivism rate and protect the
12 public. Do you know if South Carolina, if their SORNA
13 law is similar to Michigan's?

14 MS. AUKERMAN: Objection, vague.

15 THE WITNESS: I believe that there are
16 similarities between the two policies.

17 BY MR. DAMICH:

18 Q. Okay. Okay, I'm going to move on to you talked
19 about before how SORN laws have unintended consequences
20 that undermine public safety, and we're now focusing on
21 page ID 413. And you talk about one of the unintended
22 consequences is pleading down, correct, or pleading out
23 of sexual offenses, right?

24 **A. Yes.**

25 Q. Okay. And then in B you talk about New York

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1 in many respects, why would they come out with different
2 findings. And because there are only two, you know, we
3 don't know, and we didn't do a direct comparison of New
4 York and South Carolina data. But in New York at that
5 time their registration notification law was more
6 narrowly crafted, which meant it applied to fewer sex
7 offenses and included differences in the period of
8 registration, whereas South Carolina applied to really a
9 vast array of sex offenses and is for life regardless of
10 anything.

11 Q. Regardless of the offense committed?

12 **A. Yeah, regardless of anything it's for life. I'm
13 sorry, so those were the differences. And then what we
14 wondered about and speculated was that there may be less
15 tolerance for plea bargaining in a state where there is
16 some differentiation between who has to register and who
17 doesn't versus a state where almost anyone who commits
18 or is adjudicated or convicted of any type of sex crime
19 will be required to register.**

20 Q. Do you know, does New York have a tiering
21 structure?

22 **A. I believe so.**

23 Q. Okay.

24 **A. But I would have to check. But, yes, I believe
25 so.**

1 Q. And, again, just to clarify, it includes less
 2 offenders because the definition of an offender or
 3 whatever they will qualify as a registrant is not as
 4 expansive as South Carolina's, correct?

5 **A. The number of offenses and the severity of**
 6 **offenses is less expansive in New York than it was in**
 7 **South Carolina at that time, yes.**

8 Q. And South Carolina does not have a tiering
 9 system, correct?

10 **A. I would not say they don't have a tiering system**
 11 **because I think they distinguish between sexually**
 12 **violent perpetrators and others, but they do not make**
 13 **distinctions in terms of duration of registration.**

14 Q. Are you familiar with New York State's reporting
 15 requirements or the frequency of them?

16 **A. I'm sorry, I didn't understand, New York State's**
 17 **what?**

18 Q. How frequent do registrants have to report in New
 19 York, do you know?

20 **A. I don't know.**

21 Q. So if it's a less onerous law implementing SORNA
 22 it's less likely to find an increase in plea bargains,
 23 correct?

24 **A. I would not say that's correct.**

25 MS. AUKERMAN: Objection. Go ahead, Doctor

1 **A. I do not know the rate of attempted suicide for**
 2 **victims of sexual assault offhand. I'm familiar with**
 3 **the literature that shows an increase in suicidality and**
 4 **attempted suicide among survivors of child sexual abuse.**

5 Q. Okay. And do you know how many victims of sexual
 6 assault reported feeling hopelessness?

7 **A. Again, I'm familiar with the research that shows**
 8 **that child sexual abuse is associated with numerous**
 9 **mental health, physical health, and behavioral health**
 10 **outcomes that can extend across their lifespan. I have**
 11 **contributed to that literature as well, in fact.**

12 Q. And those consequences, would that result in
 13 intensive treatment oftentimes after being sexually
 14 assaulted?

15 **A. I don't believe that we provide intensive**
 16 **treatment automatically to people who have been sexually**
 17 **assaulted and we should, and that is where money should**
 18 **go.**

19 Q. Okay. Do you know the rate of depression or
 20 loneliness for victims?

21 **A. I know, and, again, I've contributed to the**
 22 **literature that sexual assault is associated with**
 23 **increased risk for particularly experiencing depression**
 24 **or experiencing anxiety like post-traumatic stress**
 25 **disorder, but also a host of other negative mental**

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1 Letourneau.

2 THE WITNESS: No, I would not say that
 3 that's a correct conclusion.

4 BY MR. DAMICH:

5 Q. And what's wrong with that conclusion?

6 **A. We have two studies that have different results,**
 7 **we don't know why those two studies have different**
 8 **results, so we guessed as to why they might, but there**
 9 **has not been additional research that would shed light**
 10 **on this.**

11 Q. I think I'm on page 16 you talk about -- under
 12 number 16 you talk about additional research has
 13 identified deleterious mental health impacts of
 14 registration and notification. Is it your opinion that
 15 requiring an individual to register has a negative
 16 impact on the registrant mentally?

17 **A. It's my opinion based on the science that that is**
 18 **true for more people than not, that relative to people**
 19 **who don't have to register that registration is**
 20 **associated with negative mental health impacts.**

21 Q. Okay. And I see that you give the percentages
 22 for the registered young adults who felt hopelessness
 23 and less perceived social support from friends and
 24 family. Do you know the rate of attempted suicide for
 25 victims of sexual assault?

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1 **health consequences.**

2 Q. Okay. Do you know what cost on society -- let me
 3 rephrase this. What cost on society does a sexual
 4 assault have, like what's the overall cost on society?

5 MS. AUKERMAN: Objection, vague.

6 THE WITNESS: So I have published a study
 7 that looks at the fiscal burden of child sexual abuse on
 8 our nation and also on individual survivors. So in our
 9 publication, which was conducted with the CDC, people
 10 from the CDC and other health economists, we found that
 11 people who survive child sexual abuse compared to people
 12 who had not been sexually abused in childhood earned
 13 about \$283,000 less across their lifetimes and that the
 14 national burden of child sexual abuse is about 9.2
 15 billion dollars annually of costs that can be attributed
 16 to child sexual abuse. It is a very costly, very
 17 harmful public health problem.

18 MR. DAMICH: It's getting pretty close to
 19 twelve, do you mind if we take about a ten minute break
 20 and come back at 12:10; is that okay with you, Miriam?

21 MS. AUKERMAN: I'm going to refer to Doctor
 22 Letourneau, who I know wants lunch at some point.

23 THE WITNESS: I was going to say can we take
 24 longer and break for lunch, that would be --
 25 MR. DAMICH: No, you only get ten minutes to

1 eat.

2 THE WITNESS: It feels like prison.

3 MR. DAMICH: How long, would you like a half
4 hour?

5 THE WITNESS: Yeah, 30 minutes would be
6 great. Come back at --

7 MR. DAMICH: 12:30?

8 THE WITNESS: Yes.

9 MR. DAMICH: And to be up front I don't
10 anticipate too much longer after that.

11 THE WITNESS: I still definitely want lunch.

12 MR. DAMICH: Exactly. All right, we'll see
13 you in a bit.

14 THE WITNESS: Okay, thanks.

15 (Lunch recess.)

16 MR. DAMICH: We're back on the record.

17 BY MR. DAMICH:

18 Q. Let me go ahead and share my screen. I know
19 before we took a lunch break we were looking through
20 your report, but I'm going to share my screen and try to
21 see if I can play a video for you. Okay, do you
22 remember giving a TEDMED presentation?

23 A. Yes.

24 Q. And when did you give that presentation?

25 A. I think it was 2016, 2016 or 2017.

1 Q. So laws that stigmatize, is that what you're
2 saying?

3 A. What I mean is identifying behavior as immoral
4 and as unjust and harmful.

5 Q. Okay.

6 A. And I am careful to talk about behavior and not
7 individuals. It is not effective to stigmatize people,
8 that actually tends to drive people towards more
9 unhelpful and sometimes harmful behaviors, but we
10 absolutely have to stigmatize inappropriate behaviors.
11 It's a similar distinction that's made with suicide, we
12 don't want people to view suicide as a reasonable
13 option, but we don't ever want to stigmatize people who
14 feel or are suicidal.

15 Q. I got you. So focus on the act itself, not the
16 person?

17 A. Correct.

18 Q. Okay. I'm going to go back to your report here,
19 I'm going to go ahead and reshare my screen. And also
20 if we could -- the video I played, if we could have it
21 as Exhibit D I think we're on.

22 (Whereupon Deposition Exhibit D
23 marked for identification.)

24 BY MR. DAMICH:

25 Q. Okay, can you see my screen now?

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1 Q. And then what was the topic of the presentation?
2 A. That child sexual abuse is preventable, not
3 inevitable.

4 Q. Okay. I'm going to attempt to play a clip from
5 the presentation and I'm hoping that the sound works.
6 Let me know if you don't hear anything, okay?

7 A. Okay.

8 (Transcription of video.)

9 Dr. Letourneau:abuse of images of
10 children, child pornography, without having any
11 idea that doing so was both harmful and illegal.
12 We rightly stigmatize and punish adult sexual
13 violence, but children are not adults, and it is
14 appropriate and it is just to treat them
15 differently.

16 (Video stopped.)

17 BY MR. DAMICH:

18 Q. Okay, I'm going to go ahead and stop. Were you
19 able to hear that?

20 A. Yes.

21 Q. All right, success. You had stated that we
22 rightly stigmatize and punish adult sexual violence.
23 What do you mean by rightly stigmatize?

24 A. That it is appropriate to have laws that hold
25 people accountable for causing harm against children.

1 A. Yes.

2 Q. On page 22 here this looks like it's section III
3 of your report where you talk about recidivism risk can
4 be lowered by laws that address the factors that
5 increase risk. Are you with me on that one?

6 A. Yes.

7 Q. Okay. Could you explain to me what in your
8 opinion those laws should be, what can be done?

9 A. Yes. I believe that we should support efforts to
10 effectively prevent sexual violence. So, for example, I
11 have advocated for many years to increase funding for
12 child sexual abuse prevention research, and that
13 advocacy has, in fact, resulted in a line item in the
14 federal budget that now gives the CDC three million
15 dollars a year in support of child sexual abuse
16 prevention science.

17 So I think what we need are policies that
18 direct resources, including funding but as well as other
19 resources, to really identify and then disseminate
20 effective prevention programming and effective
21 intervention programming as well. I think that we
22 should ensure that people who have engaged in harmful
23 sexual behaviors are provided with interventions that
24 effectively reduce the likelihood of recidivism. That
25 means, for example, Circles of Support and

1 Accountability, an intervention that has been validated
 2 in multiple randomized controlled trials in multiple
 3 countries.

4 And likewise with children who have engaged
 5 in harmful sexual behavior there are at least two
 6 evidence based effective programs that reduce the
 7 likelihood of future offending in general. And then
 8 prove outcomes, including school outcomes, family
 9 outcomes, and so on.

10 Q. Okay. You mentioned the Circles of Support and
 11 Accountability. The Circles of Support and
 12 Accountability, that was founded in Canada, correct?

13 A. Yes.

14 Q. And what exactly is it? Is it like a nonprofit;
 15 is it a government agency or entity?

16 A. Circles of Support and Accountability, CoSA, is
 17 an intervention, so it's an intervention strategy. My
 18 understanding is that there was a religious group, I
 19 don't recall if it was Quakers or Mennonites, but some
 20 religious group that had a congregation member who was
 21 returning from prison and they were grappling with what
 22 to do with him. He had been convicted of child sexual
 23 abuse, he was returning to the community. And they
 24 decided to try to figure out what would actually help
 25 him be successful.

1 intervention, limit it to people at highest risk and so
 2 that is how you would apply this. It would not be
 3 something that you would apply to everyone because most
 4 individuals who come out will not be reconvicted of a
 5 new sex crime and most of them will be found to be low
 6 risk to reoffend and could be successfully supported
 7 under other more standard community supervision schemas.

8 Q. And in your opinion, what is an individual at
 9 high risk, how do you determine high risk?

10 A. With evidence based empirically rigorous risk
 11 assessment tools.

12 Q. And what type of tools are you familiar with?

13 A. I am familiar with but not an expert on
 14 Static-99, or there's another violence -- BSOR
 15 (phonetic), I think. It's been a while since I've
 16 reviewed that literature so it's not an area that I am
 17 an expert on.

18 Q. Okay. So you think they would have to have an
 19 individualized assessment in addition to the
 20 individualized assessment this Circle of Support and
 21 Accountability for high risk individuals would be your
 22 suggestion to lawmakers?

23 A. That is one way that they could improve their
 24 efforts to actually prevent sexual violence, yes.

25 Q. And do you know how much it cost to provide

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1 So they worked with probation officers and
 2 others and came up with a strategy of identifying
 3 volunteers who would be there to help support him when
 4 he returned to the community in terms of helping him
 5 find and maintain employment, find and maintain housing,
 6 and also provide social support with him.

7 At the same time they worked closely with
 8 probation officers or parole officers as the case may be
 9 to understand what was this individual's crime, what was
 10 his modus operandi, that is how did he engage in his
 11 criminal behavior, what strategies did he use. So that
 12 they could also, in addition to providing support around
 13 those three key factors of employment, housing, and
 14 social support, could also serve as people who might
 15 identify early warning signs that someone could be
 16 slipping back into criminal behavior and alert the
 17 community supervisor or take other steps to ensure that
 18 it didn't go any further.

19 Q. Okay. And do you know how much it would cost to
 20 provide that type of program for each of the more than
 21 50,000 registrants on Michigan's registry?

22 A. There would be no reason to provide this
 23 intervention to each registrant or to other people who
 24 may have committed sex crimes who aren't on Michigan's
 25 registry. You would, as with any intensive

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1 individualized review for Michigan registrants?

2 A. I do not.

3 MR. DAMICH: I don't have any further
 4 questions.

5 EXAMINATION

6 BY MS. AUCKERMAN:

7 Q. I just have just a few, Doctor Letourneau. We
 8 talked at the beginning about your areas of expertise
 9 and I just wanted to make sure that you had a chance to
 10 tell us what areas you consider yourself to be an expert
 11 in?

12 A. I am an expert in child sexual abuse in general.
 13 I am an expert in child sexual abuse victimization, I am
 14 an expert in child sexual abuse perpetration, I am an
 15 expert in sex crime policy, particularly sex offender
 16 registration and notification, and I think I would
 17 probably clear the hurdle to be judged to be an expert
 18 in policy research more generally based on the funded
 19 research that I do that looks at the impacts of a
 20 variety of policies, including policies that have
 21 nothing to do with sexual offending but their impact on
 22 violence.

23 Q. And so with respect to policy, public policy
 24 expertise, that would include issues around
 25 registration, child sexual abuse and prevention, and

1 victimization?

2 A. Yes.

3 Q. And you mentioned that you're an expert on child
4 sexual abuse broadly and also child sexual abuse
5 perpetration. Are you an expert in child sexual abuse
6 prevention?

7 A. Yes, I am possibly the world's leading expert,
8 not to brag, but, yes, I think, yes.

9 Q. I wanted to make sure we got that clarified. And
10 then what about victim -- an expertise in victim and
11 victimology?

12 A. Yes.

13 Q. Have you testified on behalf of victims or
14 survivors?

15 A. I have.

16 Q. Can you tell us about that?

17 A. There were a couple of cases where I was the
18 therapist for survivors and went to court, not as an
19 expert but as their therapist. In one case it was to
20 protect a young boy from unsupervised visitation by his
21 offending father, and then another case it was for a
22 criminal case against a gynecologist who my client
23 alleged, I believe quite truthfully, that had sexually
24 assaulted her when she was a teenager.

25 Q. And then we talked a little bit about the

1 really grapple with whether to bring a sex crime case
2 forward if registration is going to be one of the
3 potential consequences. That's anecdotal, but it is
4 something that I've heard repeatedly over the course of
5 the last 20 years of my career.

6 Q. So just to be clear, your personal experience
7 being contacted by victims is -- victims coming to you
8 saying I want to report but I'm concerned that if I do
9 that the offender will be put on the registry and that's
10 a reason not to report it, has that been your
11 experience?

12 A. Yes. And often it's parents of victims who are
13 contacting me.

14 Q. Okay. You talked some about the impact of
15 registration on children. Does the research distinguish
16 between -- let me put it this way, what is the impact on
17 children of registration that is offline so they are not
18 put on a public registry?

19 A. So our research study -- we've conducted a couple
20 of research studies looking at the impact of
21 registration notification when it's applied to children
22 under the age of 18, and one of those studies involves
23 surveying 256 therapists who work with children or
24 children and adults who had committed sex offenses, I
25 think we recruited them from 44 states, so a pretty

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1 difference between -- you were asked a number of
2 questions with respect to whether or not people could
3 reoffend after being caught and detected by the criminal
4 justice system. The people on Michigan's registry have
5 by definition been caught by the criminal justice
6 system, convicted, and punished. Does being caught by
7 the criminal justice system have an effect?

8 A. I believe it has a very strong effect. Again, we
9 see that 80 percent or more of adults who are held
10 criminally accountable for sex crimes do not go on to
11 have another sexual reconviction. And more than 92
12 percent of children do not go on in childhood or
13 adulthood to have another sex crime conviction. So I
14 think being held -- being caught and held accountable is
15 a very powerful intervention in and of itself.

16 Q. And then we talked a little bit about the impact
17 on victims. Are you aware of any literature, any
18 scientific literature, that registries make it more
19 likely that victims would report?

20 A. No. I have not seen any research to suggest that
21 registration increases reporting. Anecdotally I can
22 share that people have reached out to me trying to
23 figure out how to report a sex crime but avoid
24 registration as a possible outcome, and that is usually
25 not possible. So I know that there are families that

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1 broad sample. And they independently identified and
2 very almost unanimously identified a number of harms
3 that they attributed to registration separate
4 from -- about registration separate from public
5 notification.

6 And we asked about consequences on
7 schooling, on housing, on mental health, and what we
8 found is that for a majority of the items in all of
9 those different categories the providers believe that
10 registration increase the likelihood of harm in those
11 categories to kids, they believed that notification
12 increased the harm more. So that was one study.

13 And then in the second study we looked at
14 kids who were in treatment for having sexually offended,
15 and we compared those who were required to register
16 and/or placed on a -- and/or subjected to notification
17 policies compared to kids that had -- that we matched
18 for type of crime and for age, for gender, they were all
19 boys, and for race, and we found that most of the kids
20 were not on public registries. So many states, I
21 believe Michigan is one, have a non-online registry for
22 children.

23 That didn't diminish the results that we
24 found. Even though most of the children in our sample,
25 these were kids aged 12 to 17, were on non-online

1 registries, we nevertheless found just these horrific
 2 increases in being approached by adults for sex, being
 3 sexually victimized and attempting suicide, not just
 4 thinking about it.

5 So from my perspective there is not a way to
 6 make registration safe or effective, it is ineffective
 7 whether it involves online notification or other types
 8 of notification. For example, even when children are
 9 not online states often will inform a child's school
 10 about his or her registration status and so it is
 11 certainly not private.

12 Q. Thank you. And then you were asked a number of
 13 questions about cost estimates. And I wanted to ask, I
 14 mean the term estimate can mean that you're projecting
 15 into the future, but it also can mean that the cost is
 16 estimated because it's hard to get it precise, right?
 17 An estimate can mean two separate types of things; is
 18 that fair to say?

19 A. Yes, that's fair to say.

20 Q. So if you're estimating, trying to give an
 21 estimate, of what sex offense registration and
 22 notification, what the costs are, what are the factors
 23 that you would need to look at, what are the costs that
 24 would be encompassed in that?

25 A. There's a number, I mean in those local and state

1 A. Yeah, absolutely. Yeah, I mean there's also
 2 costs just to maintain the website, so that's not free,
 3 there's a cost related to maintaining registry websites
 4 to responding to requests for more information. And
 5 then the costs related to additional litigation that I
 6 think, and others have estimated, increases both before,
 7 during, and after registration.

8 So, again, we saw all this plea bargaining
 9 that we believe was occasioned by registration and even
 10 more so by online registration, that would be
 11 another -- you know, those kinds of costs, costs of
 12 appeals to get off a registry, and then costs of
 13 subsequent registry related violations I think should
 14 also be included.

15 Q. So like the cost of prosecuting the subsequent
 16 registry violations and the incarceration, so the court
 17 costs, public defense, prosecutorial costs,
 18 incarceration costs?

19 A. Costs of arrest, costs of any pretrial detention,
 20 all of that stuff, yes.

21 Q. Okay. And then you described how registries can
 22 affect employment and housing. If people on registries
 23 are earning less money, paying less taxes, are there
 24 costs associated there as well?

25 A. Yes.

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1 cost estimates that I found that were conducted by local
 2 and state government offices, they all used -- they all
 3 looked at different criteria. It would be helpful to
 4 the field to have a really solid cost estimate that
 5 looked across states and looked at the same -- the same
 6 cost elements.

7 So, you know, cost elements can
 8 include -- I'm not going to give a whole list right here
 9 if that's okay, but just in general like when I've
 10 thought about what would an ideal study look like it
 11 would include all of the costs related to personnel who
 12 manage registries, all of the costs related to
 13 confirming the information on the registry, all of the
 14 costs related to reregistration and the frequency with
 15 which that has to happen and the different conditions
 16 under which that has to happen.

17 It should include any costs related to
 18 officers going out to check is a person where they say
 19 they are and so forth. It should include the costs --
 20 ideally a proper cost estimate would also include the
 21 cost borne by the registrant, so taking time off of work
 22 to reregister, mileage, whatever their identifiable
 23 costs are available in that respect.

24 Q. And then there would be costs for
 25 re-incarceration or failure to register?

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1 Q. Okay. And then what about -- oh, I believe your
 2 report mentioned disamenity costs, the impact of
 3 registries on property values?

4 A. Yes. I think there's been three studies now that
 5 show that if somebody who is a registered -- on a sex
 6 offender registry lives near you, when you put your
 7 house up on the market you stand to get about five
 8 percent less in your sale price than if you did not have
 9 a near neighbor who was on a sex offender registry, and
 10 that is what's meant by a disamenity impact. And that
 11 actually drove some of the large figures in that R
 12 Street report that I mentioned where they tried to
 13 estimate the cost of juvenile registration to the
 14 country.

15 Q. And you mentioned that there hasn't been a
 16 comprehensive study of the cost of registration; is that
 17 right?

18 A. That's correct, not to my knowledge.

19 Q. Is it fair to say that they are quite
 20 substantial?

21 MR. DAMICH: Object, lack of foundation.

22 THE WITNESS: I think based on multiple
 23 government agencies estimating costs in the hundreds of
 24 thousands and millions of dollars annually, you know, it
 25 depends on what you mean by substantial, but what I

1 would say without equivocating is that every single
2 dollar we spend on these should be going to something
3 more effective at supporting survivors and preventing
4 harm from occurring in the first place.

5 MS. AUKERMAN: I don't have any further
6 questions.

7 MR. DAMICH: I don't have any follow up
8 either.

9 (Whereupon Deposition concluded at 12:55 p.m.)

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1 STATE OF MICHIGAN)
2) SS
2 COUNTY OF INGHAM)

3 I, Melinda Nardone, Certified Shorthand
4 Reporter and Notary Public in and for the County of
5 Ingham, State of Michigan, do hereby certify that the
6 foregoing deposition was taken before me at the time
7 hereinbefore set forth.

8 I further certify that said witness was
9 duly sworn in said cause to tell the truth; that the
10 testimony then given was reported by me remotely to the
11 best of my ability; subsequently produced under my
12 direction and supervision; and that the foregoing is a
13 complete, true, and correct transcript of my original
14 shorthand notes.

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand and seal this 12th day of June, 2023.

17
18

19
20 Melinda S. Nardone, CSR-1311,
21 Certified Shorthand Reporter,
and Notary Public, County
of Ingham, State of Michigan.
22 My Commission Expires: 10-24-24
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